

Article - Natural Resources

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§4-11A-23.

(a) (1) In this section the following words have the meanings indicated.

(2) “Permit” means a shellfish nursery permit.

(3) “Pier” has the meaning stated in § 16-101 of the Environment Article.

(b) A person may not engage in the commercial rearing of shellfish seed outside an area leased under this subtitle without first obtaining a permit from the Department.

(c) For a shellfish nursery to be located on land, the Department may issue a permit only to the owner or legal tenant of the property or to a person with the permission of the property owner.

(d) (1) For a shellfish nursery to be located in waters of the State outside a leased area, the Department may issue a permit only:

(i) To the owner of a pier or other structure constructed on or about the water and approved by the U.S. Army Corps of Engineers, or to a person with the permission of the owner of the pier or other structure; and

(ii) For the cultivation of shellfish seed within 20 feet of the pier or other structure, in an area of water not exceeding 200 square feet.

(2) A person is not required to obtain a water column lease or a submerged land lease for a permitted in-water shellfish nursery operation.

(3) Shellfish nursery products are exempt from water quality classifications and restrictions established by the Department of the Environment under the National Shellfish Sanitation Program.

(4) A person cultivating shellfish seed using a pump, a pipe, or any other equipment attached to a pier in accordance with a permit issued under this section is not required to obtain a tidal wetlands license or permit from the Department of the Environment or a State wetlands license from the Board of Public Works under Title 16 of the Environment Article, provided that the pump, pipe, or

other equipment does not require increasing the length, width, or channelward encroachment of the pier.

(e) (1) To obtain a permit, a person shall:

(i) Complete and submit an application to the Department on a form prescribed by the Department; and

(ii) Pay a nonrefundable application fee established by the Department in consultation with the Aquaculture Coordinating Council.

(2) The application fee may not exceed the cost of processing the permit.

(f) The Department may, as it considers necessary to protect the public health, safety, and welfare:

(1) Deny a permit application for reasonable cause; or

(2) Include conditions in a permit.

(g) (1) The term of a shellfish nursery permit is 5 years.

(2) The Department may revoke or suspend a permit issued under this section at any time for noncompliance with the requirements of this section, regulations adopted under this section, or the conditions of the permit.

(h) A permit holder shall allow the Department to inspect at reasonable hours any facilities, equipment, or shellfish that are part of the permit holder's shellfish nursery operations.

(i) The Department may adopt regulations to implement this section.

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